

ASSEMBLY BILL

No. 2274

Introduced by Assembly Member Dymally

February 19, 2004

An act to amend Sections 11351, 11353, 11353.1, 11353.6, 11369, 11370, 11370.2, 11370.4, 11372, 11372.5, 11470, 11470.4, 11488, 11571.1, 11590 of, and to repeal Sections 11351.5 and 11353.4 of, the Health and Safety Code, and to amend Sections 629.52, 666.7, 999e, 1170.11, 1174.4, 1203.07, 1203.073, 6243, and 12022 of the Penal Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2274, as introduced, Dymally. Controlled substances.

(1) Existing law provides that every person who possesses for sale or purchases for purposes of sale cocaine base shall be punished by imprisonment in the state prison for a period of 3, 4, or 5 years and that every person who possesses for sale or purchases for purposes of sale cocaine powder shall be punished by imprisonment in the state prison for a period of 2, 3, or 4 years.

This bill would provide that every person who possesses for sale or purchases for purposes of sale either cocaine base or cocaine powder shall be punished by imprisonment in the state prison for 2, 3, or 4 years. The bill would make conforming changes to related provisions.

(2) Existing law makes it a crime for anyone 18 years of age or over to solicit, induce, encourage, or intimidate a minor with the intent that the minor violate specified controlled substance offenses. Existing law imposes a specified enhancement if this provision is violated for a 2nd or subsequent time with respect to cocaine base.

This bill would repeal that enhancement.

(3) Existing law provides that any person 18 years of age or over who is convicted of the possession of cocaine base for sale, or the transportation, sale, or giving away of cocaine base, or the manufacturing or producing of cocaine base, as specified, where the violation takes place upon school grounds, shall receive an additional punishment of 3, 4, or 5 years.

This bill would repeal that enhancement.

(4) Existing law generally provides that the interest of any registered owner of a boat, airplane, or any vehicle used as an instrument to facilitate the manufacture of, or possession for sale or sale of, 14.25 grams or more of cocaine base or 28.5 grams or more of cocaine powder is subject to forfeiture, as specified.

This bill would instead provide that the interest of any registered owner of a boat, airplane, or any vehicle used as an instrument to facilitate the manufacture of, or possession for sale or sale of, 28.5 grams or more of either cocaine base or cocaine powder is subject to forfeiture. The bill would make conforming changes to related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that
2 cocaine hydrochloride (powder cocaine) and cocaine base (crack
3 cocaine) are two forms of cocaine, the effect on the human body
4 of which are so similar that to mete out unequal punishment for the
5 same crime (e.g., the sale of a particular form of cocaine), is wholly
6 and cruelly unfair and unjust.

7 (b) It is the intent of the Legislature in enacting this act to
8 provide that for the purposes of determining appropriate penalties
9 for crimes relating to cocaine hydrochloride and cocaine base,
10 such as the crimes of possession, possession with intent to sell, or
11 transportation for sale, cocaine hydrochloride and cocaine base
12 shall be treated in an identical manner.

13 SEC. 2. Section 11351 of the Health and Safety Code is
14 amended to read:

15 11351. Except as otherwise provided in this division, every
16 person who possesses for sale or purchases for purposes of sale (1)
17 any controlled substance specified in subdivision (b), (c), or (e) of



1 Section 11054, specified in paragraph (14), (15), or (20) of
2 subdivision (d) of Section 11054, *specified in paragraph (1) of*
3 *subdivision (f) of Section 11054*, or specified in subdivision (b) or
4 (c) of Section 11055, or specified in subdivision (h) of Section
5 11056, or (2) any controlled substance classified in Schedule III,
6 IV, or V which is a narcotic drug, shall be punished by
7 imprisonment in the state prison for two, three, or four years.

8 SEC. 3. Section 11351.5 of the Health and Safety Code is
9 repealed.

10 ~~11351.5. Except as otherwise provided in this division, every~~
11 ~~person who possesses for sale or purchases for purposes of sale~~
12 ~~cocaine base which is specified in paragraph (1) of subdivision (f)~~
13 ~~of Section 11054, shall be punished by imprisonment in the state~~
14 ~~prison for a period of three, four, or five years.~~

15 SEC. 4. Section 11353 of the Health and Safety Code is
16 amended to read:

17 11353. Every person 18 years of age or over, (a) who in any
18 voluntary manner solicits, induces, encourages, or intimidates ~~any~~
19 *a* minor with the intent that the minor shall violate any provision
20 of this chapter or Section 11550 with respect to either (1) a
21 controlled substance which is specified in subdivision (b), (c), or
22 (e), or paragraph (1) of subdivision (f) of Section 11054, specified
23 in paragraph (14), (15), or (20) of subdivision (d) of Section
24 11054, or specified in subdivision (b) or (c) of Section 11055, or
25 specified in subdivision (h) of Section 11056, or (2) any controlled
26 substance classified in Schedule III, IV, or V which is a narcotic
27 drug, (b) who hires, employs, or uses a minor to unlawfully
28 transport, carry, sell, give away, prepare for sale, or peddle any
29 such controlled substance, or (c) who unlawfully sells, furnishes,
30 administers, gives, or offers to sell, furnish, administer, or give,
31 any such controlled substance to a minor, shall be punished by
32 imprisonment in the state prison for a period of three, six, or nine
33 years.

34 SEC. 5. Section 11353.1 of the Health and Safety Code is
35 amended to read:

36 11353.1. (a) Notwithstanding any other provision of law, any
37 person 18 years of age or over who is convicted of a violation of
38 Section 11353, in addition to the punishment imposed for that
39 conviction, shall receive an additional punishment as follows:

1 (1) If the offense involved heroin, cocaine, cocaine base, or any
2 analog of these substances and occurred upon the grounds of, or
3 within, a church or synagogue, a playground, a public or private
4 youth center, a child day care facility, or a public swimming pool,
5 during hours in which the facility is open for business, classes, or
6 school-related programs, or at any time when minors are ~~using~~
7 *present within* the facility, the defendant shall, as a full and
8 separately served enhancement to any other enhancement
9 provided in paragraph (3), be punished by imprisonment in the
10 state prison for one year.

11 (2) If the offense involved heroin, cocaine, cocaine base, or any
12 analog of these substances and occurred upon, or within 1,000 feet
13 of, the grounds of any public or private elementary, vocational,
14 junior high, or high school, during hours that the school is open for
15 classes or school-related programs, or at any time when minors are
16 using the facility where the offense occurs, the defendant shall, as
17 a full and separately served enhancement to any other
18 enhancement provided in paragraph (3), be punished by
19 imprisonment in the state prison for two years.

20 (3) If the offense involved a minor who is at least four years
21 younger than the defendant, the defendant shall, as a full and
22 separately served enhancement to any other enhancement
23 provided in this subdivision, be punished by imprisonment in the
24 state prison for one, two, or three years, at the discretion of the
25 court.

26 (b) The additional punishment provided in this section shall not
27 be imposed unless the allegation is charged in the accusatory
28 pleading and admitted by the defendant or found to be true by the
29 trier of fact.

30 (c) The additional punishment provided in this section shall be
31 in addition to any other punishment provided by law and shall not
32 be limited by any other provision of law.

33 (d) Notwithstanding any other provision of law, the court may
34 strike the additional punishment provided for in this section if it
35 determines that there are circumstances in mitigation of the
36 additional punishment and states on the record its reasons for
37 striking the additional punishment.

38 (e) As used in this section the following definitions shall apply:

39 (1) "Playground" means any park or recreational area
40 specifically designed to be used by children which has play



1 equipment installed, including public grounds designed for
2 athletic activities such as baseball, football, soccer, or basketball,
3 or any similar facility located on public or private school grounds,
4 or on city, county, or state parks.

5 (2) “Youth center” means any public or private facility that is
6 primarily used to host recreational or social activities for minors,
7 including, but not limited to, private youth membership
8 organizations or clubs, social service teenage club facilities, video
9 arcades, or similar amusement park facilities.

10 (3) “Video arcade” means any premises where 10 or more
11 video game machines or devices are operated, and where minors
12 are legally permitted to conduct business.

13 (4) “Video game machine” means any mechanical amusement
14 device, which is characterized by the use of a cathode ray tube
15 display and which, upon the insertion of a coin, slug, or token in
16 any slot or receptacle attached to, or connected to, the machine,
17 may be operated for use as a game, contest, or amusement.

18 (5) “Within 1,000 feet of the grounds of any public or private
19 elementary, vocational, junior high, or high school” means any
20 public area or business establishment where minors are legally
21 permitted to conduct business which is located within 1,000 feet
22 of any public or private elementary, vocational, junior high, or
23 high school.

24 (6) “Child day care facility” has the meaning specified in
25 Section 1596.750.

26 (f) This section does not require either that notice be posted
27 regarding the proscribed conduct or that the applicable 1,000-foot
28 boundary limit be marked.

29 SEC. 6. Section 11353.4 of the Health and Safety Code is
30 repealed.

31 ~~11353.4.—(a) Any person 18 years of age or older who is~~
32 ~~convicted for a second or subsequent time of violating Section~~
33 ~~11353, as that section applies to paragraph (1) of subdivision (f)~~
34 ~~of Section 11054, where the previous conviction resulted in a~~
35 ~~prison sentence, shall, as a full and separately served enhancement~~
36 ~~to the punishment imposed for that second or subsequent~~
37 ~~conviction of Section 11353, be punished by imprisonment in the~~
38 ~~state prison for one, two, or three years.~~

39 ~~(b) If the second or subsequent violation of Section 11353, as~~
40 ~~described in subdivision (a), involved a minor who is 14 years of~~

1 age or younger, the defendant shall, as a full and separately served
2 enhancement to any other enhancement provided in this section,
3 be punished by imprisonment in the state prison for one, two, or
4 three years, at the discretion of the court.

5 (e) ~~The additional punishment provided in this section shall not~~
6 ~~be imposed unless the allegation is charged in the accusatory~~
7 ~~pleading and admitted by the defendant or found to be true by the~~
8 ~~trier of fact.~~

9 (d) ~~The additional punishment provided in this section shall be~~
10 ~~in addition to any other punishment provided by law and shall not~~
11 ~~be limited by any other provision of law.~~

12 (e) ~~Notwithstanding any other provision of law, the court may~~
13 ~~strike the additional punishment provided for in this section if it~~
14 ~~determines that there are circumstances in mitigation of the~~
15 ~~additional punishment and states on the record its reasons for~~
16 ~~striking the additional punishment.~~

17 SEC. 7. Section 11353.6 of the Health and Safety Code is
18 amended to read:

19 11353.6. (a) This section shall be known, and may be cited,
20 as the Juvenile Drug Trafficking and Schoolyard Act of 1988.

21 (b) Any person 18 years of age or over who is convicted of a
22 violation of ~~Section 11351.5, 11352, or 11379.6, as those sections~~
23 ~~apply to paragraph (1) of subdivision (f) of Section 11054, or of~~
24 ~~Section 11351, 11352, or 11379.6, as those sections apply to~~
25 ~~paragraph (11) of subdivision (c) of Section 11054, or of Section~~
26 ~~11378, 11379, or 11379.6, as those sections apply to paragraph (2)~~
27 ~~of subdivision (d) of Section 11055, or of a conspiracy to commit~~
28 ~~one of those offenses, where the violation takes place upon the~~
29 ~~grounds of, or within 1,000 feet of, a public or private elementary,~~
30 ~~vocational, junior high, or high school during hours that the school~~
31 ~~is open for classes or school-related programs, or at any time when~~
32 ~~minors are using the facility where the offense occurs, shall receive~~
33 ~~an additional punishment of 3, 4, or 5 years at the court's~~
34 ~~discretion.~~

35 (c) Any person 18 years of age or older who is convicted of a
36 violation pursuant to subdivision (b) which involves a minor who
37 is at least four years younger than that person, as a full and
38 separately served enhancement to that provided in subdivision (b),
39 shall be punished by imprisonment in the state prison for 3, 4, or
40 5 years at the court's discretion.

1 (d) The additional terms provided in this section shall not be
2 imposed unless the allegation is charged in the accusatory pleading
3 and admitted or found to be true by the trier of fact.

4 (e) The additional terms provided in this section shall be in
5 addition to any other punishment provided by law and shall not be
6 limited by any other provision of law.

7 (f) Notwithstanding any other provision of law, the court may
8 strike the additional punishment for the enhancements provided in
9 this section if it determines that there are circumstances in
10 mitigation of the additional punishment and states on the record its
11 reasons for striking the additional punishment.

12 (g) “Within 1,000 feet of a public or private elementary,
13 vocational, junior high, or high school” means any public area or
14 business establishment where minors are legally permitted to
15 conduct business which is located within 1,000 feet of any public
16 or private elementary, vocational, junior high, or high school.

17 SEC. 8. Section 11369 of the Health and Safety Code is
18 amended to read:

19 11369. When there is reason to believe that any person
20 arrested for a violation of Section 11350, 11351, ~~11351.5~~, 11352,
21 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, 11368
22 or 11550, may not be a citizen of the United States, the arresting
23 agency shall notify the appropriate agency of the United States
24 having charge of deportation matters.

25 SEC. 9. Section 11370 of the Health and Safety Code is
26 amended to read:

27 11370. (a) Any person convicted of violating Section 11350,
28 11351, ~~11351.5~~, 11352, 11353, 11355, 11357, 11359, 11360,
29 11361, 11363, 11366, or 11368, or of committing any offense
30 referred to in those sections, shall not, in any case, be granted
31 probation by the trial court or have the execution of the sentence
32 imposed upon him or her suspended by the court, if he or she has
33 been previously convicted of any offense described in subdivision
34 (c).

35 (b) Any person who was 18 years of age or over at the time of
36 the commission of the offense and is convicted for the first time
37 of selling, furnishing, administering, or giving a controlled
38 substance which is (1) specified in subdivision (b), (c), (e), or
39 paragraph (1) of subdivision (f) of Section 11054, specified in
40 paragraph (14), (15), or (20) of subdivision (d) of Section 11054,

1 or specified in subdivision (b) or (c) of Section 11055, or (2) which
2 is a narcotic drug classified in Schedule III, IV, or V, to a minor or
3 inducing a minor to use such a controlled substance in violation of
4 law shall not, in any case, be granted probation by the trial court
5 or have the execution of the sentence imposed upon him or her
6 suspended by the court.

7 (c) Any previous conviction of any of the following offenses,
8 or of an offense under the laws of another state or of the United
9 States which, if committed in this state, would have been
10 punishable as such an offense, shall render a person ineligible for
11 probation or suspension of sentence pursuant to subdivision (a) of
12 this section:

13 (1) Any felony offense described in this division involving a
14 controlled substance specified in subdivision (b), (c), (e), or
15 paragraph (1) of subdivision (f) of Section 11054, specified in
16 paragraph (13), (14), (15), or (20) of subdivision (d) of Section
17 11054, or specified in subdivision (b) or (c) of Section 11055.

18 (2) Any felony offense described in this division involving a
19 narcotic drug classified in Schedule III, IV, or V.

20 (d) The existence of any previous conviction or fact which
21 would make a person ineligible for suspension of sentence or
22 probation under this section shall be alleged in the information or
23 indictment, and either admitted by the defendant in open court, or
24 found to be true by the jury trying the issue of guilt or by the court
25 where guilt is established by a plea of guilty or nolo contendere or
26 by trial by the court sitting without a jury.

27 SEC. 10. Section 11370.2 of the Health and Safety Code is
28 amended to read:

29 11370.2. (a) Any person convicted of a violation of, or of a
30 conspiracy to violate, Section 11351, ~~11351.5~~, or 11352 shall
31 receive, in addition to any other punishment authorized by law,
32 including Section 667.5 of the Penal Code, a full, separate, and
33 consecutive three-year term for each prior felony conviction of, or
34 for each prior felony conviction of conspiracy to violate, Section
35 11351, ~~11351.5~~, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6,
36 11380, 11380.5, or 11383, whether or not the prior conviction
37 resulted in a term of imprisonment.

38 (b) Any person convicted of a violation of, or of a conspiracy
39 to violate, Section 11378.5, 11379.5, 11379.6, 11380.5, or 11383
40 shall receive, in addition to any other punishment authorized by

1 law, including Section 667.5 of the Penal Code, a full, separate,
2 and consecutive three-year term for each prior felony conviction
3 of, or for each prior felony conviction of conspiracy to violate,
4 Section 11351, ~~11351.5~~, 11352, 11378, 11378.5, 11379, 11379.5,
5 11379.6, 11380, 11380.5, or 11383, whether or not the prior
6 conviction resulted in a term of imprisonment.

7 (c) Any person convicted of a violation of, or of a conspiracy
8 to violate, Section 11378 or 11379 with respect to any substance
9 containing a controlled substance specified in paragraph (1) or (2)
10 of subdivision (d) of Section 11055 shall receive, in addition to any
11 other punishment authorized by law, including Section 667.5 of
12 the Penal Code, a full, separate, and consecutive three-year term
13 for each prior felony conviction of, or for each prior felony
14 conviction of conspiracy to violate, Section 11351, ~~11351.5~~,
15 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5,
16 or 11383, whether or not the prior conviction resulted in a term of
17 imprisonment.

18 (d) The enhancements provided for in this section shall be
19 pleaded and proven as provided by law.

20 (e) The conspiracy enhancements provided for in this section
21 shall not be imposed unless the trier of fact finds that the defendant
22 conspirator was substantially involved in the planning, direction,
23 execution, or financing of the underlying offense.

24 (f) Prior convictions from another jurisdiction qualify for use
25 under this section pursuant to Section 668.

26 SEC. 11. Section 11370.4 of the Health and Safety Code is
27 amended to read:

28 11370.4. (a) Any person convicted of a violation of, or of a
29 conspiracy to violate, Section 11351, ~~11351.5~~, or 11352 with
30 respect to a substance containing heroin, cocaine base as specified
31 in paragraph (1) of subdivision (f) of Section 11054, or cocaine as
32 specified in paragraph (6) of subdivision (b) of Section 11055 shall
33 receive an additional term as follows:

34 (1) Where the substance exceeds one kilogram by weight, the
35 person shall receive an additional term of three years.

36 (2) Where the substance exceeds four kilograms by weight, the
37 person shall receive an additional term of five years.

38 (3) Where the substance exceeds 10 kilograms by weight, the
39 person shall receive an additional term of 10 years.

1 (4) Where the substance exceeds 20 kilograms by weight, the
2 person shall receive an additional term of 15 years.

3 (5) Where the substance exceeds 40 kilograms by weight, the
4 person shall receive an additional term of 20 years.

5 (6) Where the substance exceeds 80 kilograms by weight, the
6 person shall receive an additional term of 25 years.

7 The conspiracy enhancements provided for in this subdivision
8 shall not be imposed unless the trier of fact finds that the defendant
9 conspirator was substantially involved in the planning, direction,
10 execution, or financing of the underlying offense.

11 (b) Any person convicted of a violation of, or of conspiracy to
12 violate, Section 11378, 11378.5, 11379, or 11379.5 with respect to
13 a substance containing methamphetamine, amphetamine,
14 phencyclidine (PCP) and its analogs shall receive an additional
15 term as follows:

16 (1) Where the substance exceeds one kilogram by weight, or 30
17 liters by liquid volume, the person shall receive an additional term
18 of three years.

19 (2) Where the substance exceeds four kilograms by weight, or
20 100 liters by liquid volume, the person shall receive an additional
21 term of five years.

22 (3) Where the substance exceeds 10 kilograms by weight, or
23 200 liters by liquid volume, the person shall receive an additional
24 term of 10 years.

25 (4) Where the substance exceeds 20 kilograms by weight, or
26 400 liters by liquid volume, the person shall receive an additional
27 term of 15 years.

28 In computing the quantities involved in this subdivision, plant
29 or vegetable material seized shall not be included.

30 The conspiracy enhancements provided for in this subdivision
31 shall not be imposed unless the trier of fact finds that the defendant
32 conspirator was substantially involved in the planning, direction,
33 execution, or financing of the underlying offense.

34 (c) The additional terms provided in this section shall not be
35 imposed unless the allegation that the weight of the substance
36 containing heroin, cocaine base as specified in paragraph (1) of
37 subdivision (f) of Section 11054, cocaine as specified in paragraph
38 (6) of subdivision (b) of Section 11055, methamphetamine,
39 amphetamine, or phencyclidine (PCP) and its analogs exceeds the

1 amounts provided in this section is charged in the accusatory
2 pleading and admitted or found to be true by the trier of fact.

3 (d) The additional terms provided in this section shall be in
4 addition to any other punishment provided by law.

5 (e) Notwithstanding any other provision of law, the court may
6 strike the additional punishment for the enhancements provided in
7 this section if it determines that there are circumstances in
8 mitigation of the additional punishment and states on the record its
9 reasons for striking the additional punishment.

10 SEC. 12. Section 11372 of the Health and Safety Code is
11 amended to read:

12 11372. (a) In addition to the term of imprisonment provided
13 by law for persons convicted of violating Section 11350, 11351,
14 ~~11351.5~~, 11352, 11353, 11355, 11359, 11360, or 11361, the trial
15 court may impose a fine not exceeding twenty thousand dollars
16 (\$20,000) for each offense. In no event shall a fine be levied in lieu
17 of or in substitution for the term of imprisonment provided by law
18 for any of these offenses.

19 (b) Any person receiving an additional term pursuant to
20 paragraph (1) of subdivision (a) of Section 11370.4, may, in
21 addition, be fined by an amount not exceeding one million dollars
22 (\$1,000,000) for each offense.

23 (c) Any person receiving an additional term pursuant to
24 paragraph (2) of subdivision (a) of Section 11370.4, may, in
25 addition, be fined by an amount not to exceed four million dollars
26 (\$4,000,000) for each offense.

27 (d) Any person receiving an additional term pursuant to
28 paragraph (3) of subdivision (a) of Section 11370.4, may, in
29 addition, be fined by an amount not to exceed eight million dollars
30 (\$8,000,000) for each offense.

31 (e) The court shall make a finding, prior to the imposition of the
32 fines authorized by subdivisions (b) to (e), inclusive, that there is
33 a reasonable expectation that the fine, or a substantial portion
34 thereof, could be collected within a reasonable period of time,
35 taking into consideration the defendant's income, earning
36 capacity, and financial resources.

37 SEC. 13. Section 11372.5 of the Health and Safety Code is
38 amended to read:

39 11372.5. (a) Every person who is convicted of a violation of
40 Section 11350, 11351, ~~11351.5~~, 11352, 11355, 11358, 11359,

1 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5,
2 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390,
3 11391, or 11550 or subdivision (a) or (c) of Section 11357, or
4 subdivision (a) of Section 11360 of this code, or Section 4230 of
5 the Business and Professions Code shall pay a criminal laboratory
6 analysis fee in the amount of fifty dollars (\$50) for each separate
7 offense. The court shall increase the total fine necessary to include
8 this increment.

9 With respect to those offenses specified in this subdivision for
10 which a fine is not authorized by other provisions of law, the court
11 shall, upon conviction, impose a fine in an amount not to exceed
12 fifty dollars (\$50), which shall constitute the increment prescribed
13 by this section and which shall be in addition to any other penalty
14 prescribed by law.

15 (b) The county treasurer shall maintain a criminalistics
16 laboratories fund. The sum of fifty dollars (\$50) shall be deposited
17 into the fund for every conviction under Section 11350, 11351,
18 ~~11351.5~~, 11352, 11355, 11358, 11359, 11361, 11363, 11364,
19 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6,
20 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550,
21 subdivision (a) or (c) of Section 11357, or subdivision (a) of
22 Section 11360 of this code, or Section 4230 of the Business and
23 Professions Code, in addition to fines, forfeitures, and other
24 moneys which are transmitted by the courts to the county treasurer
25 pursuant to Section 11502. The deposits shall be made prior to any
26 transfer pursuant to Section 11502. The county may retain an
27 amount of this money equal to its administrative cost incurred
28 pursuant to this section. Moneys in the criminalistics laboratories
29 fund shall, except as otherwise provided in this section, be used
30 exclusively to fund (1) costs incurred by criminalistics
31 laboratories providing microscopic and chemical analyses for
32 controlled substances, in connection with criminal investigations
33 conducted within both the incorporated or unincorporated
34 portions of the county, (2) the purchase and maintenance of
35 equipment for use by these laboratories in performing the
36 analyses, and (3) for continuing education, training, and scientific
37 development of forensic scientists regularly employed by these
38 laboratories. Moneys in the criminalistics laboratory fund shall be
39 in addition to any allocations pursuant to existing law. As used in
40 this section, "criminalistics laboratory" means a laboratory

operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable county overhead charges not to exceed 5 percent attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the State General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The county treasurer shall annually distribute those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 14. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an

1 instrument to facilitate the manufacture of, or possession for sale
2 or sale of 14.25 grams or more of heroin ~~or cocaine base as~~
3 ~~specified in paragraph (1) of subdivision (f) of Section 11054, or~~
4 a substance containing 14.25 grams or more of heroin ~~or cocaine~~
5 ~~base as specified in paragraph (1) of subdivision (f) of Section~~
6 ~~11054, or 14.25 grams or more of a substance containing heroin~~
7 ~~or cocaine base as specified in paragraph (1) of subdivision (f) of~~
8 ~~Section 11054, or 28.5 grams or more of Schedule I controlled~~
9 substances except marijuana, peyote, or psilocybin; 10 pounds dry
10 weight or more of marijuana, peyote, or psilocybin; or 28.5 grams
11 or more of cocaine, ~~as specified in paragraph (6) of subdivision (b)~~
12 ~~of Section 11055 or cocaine base, or methamphetamine; or a~~
13 substance containing 28.5 grams or more of cocaine, ~~as specified~~
14 ~~in paragraph (6) of subdivision (b) of Section 11055 or cocaine~~
15 ~~base, or methamphetamine; or 57 grams or more of a substance~~
16 ~~containing cocaine, as specified in paragraph (6) of subdivision (b)~~
17 ~~of Section 11055 or cocaine base, or methamphetamine; or 28.5~~
18 grams or more of Schedule II controlled substances. No interest in
19 a vehicle which may be lawfully driven on the highway with a class
20 C, class M1, or class M2 license, as prescribed in Section 12804
21 of the Vehicle Code, may be forfeited under this subdivision if
22 there is a community property interest in the vehicle by a person
23 other than the defendant and the vehicle is the sole class C, class
24 M1, or class M2 vehicle available to the defendant's immediate
25 family.

26 (f) All moneys, negotiable instruments, securities, or other
27 things of value furnished or intended to be furnished by any person
28 in exchange for a controlled substance, all proceeds traceable to
29 such an exchange, and all moneys, negotiable instruments, or
30 securities used or intended to be used to facilitate any violation of
31 Section 11351, ~~11351.5~~, 11352, 11355, 11359, 11360, 11378,
32 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this
33 code, or Section 182 of the Penal Code, or a felony violation of
34 Section 11366.8 of this code, insofar as the offense involves
35 manufacture, sale, possession for sale, offer for sale, or offer to
36 manufacture, or conspiracy to commit at least one of those
37 offenses, if the exchange, violation, or other conduct which is the
38 basis for the forfeiture occurred within five years of the seizure of
39 the property, or the filing of a petition under this chapter, or the

1 issuance of an order of forfeiture of the property, whichever comes
2 first.

3 (g) The real property of any property owner who is convicted
4 of violating Section 11366, 11366.5, or 11366.6 with respect to
5 that property. However, property which is used as a family
6 residence or for other lawful purposes, or which is owned by two
7 or more persons, one of whom had no knowledge of its unlawful
8 use, shall not be subject to forfeiture.

9 (h) Subject to the requirements of Section 11488.5 and except
10 as further limited by this subdivision to protect innocent parties
11 who claim a property interest acquired from a defendant, all right,
12 title, and interest in any personal property described in this section
13 shall vest in the state upon commission of the act giving rise to
14 forfeiture under this chapter, if the state or local governmental
15 entity proves a violation of Section 11351, ~~11351.5~~, 11352, 11355,
16 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380,
17 11382, or 11383 of this code, or Section 182 of the Penal Code, or
18 a felony violation of Section 11366.8 of this code, insofar as the
19 offense involves the manufacture, sale, possession for sale, offer
20 for sale, offer to manufacture, or conspiracy to commit at least one
21 of those offenses, in accordance with the burden of proof set forth
22 in paragraph (1) of subdivision (i) of Section 11488.4 or, in the
23 case of cash or negotiable instruments in excess of twenty-five
24 thousand dollars (\$25,000), paragraph (4) of subdivision (i) of
25 Section 11488.4.

26 The operation of the special vesting rule established by this
27 subdivision shall be limited to circumstances where its application
28 will not defeat the claim of any person, including a bona fide
29 purchaser or encumbrancer who, pursuant to Section 11488.5,
30 11488.6, or 11489, claims an interest in the property seized,
31 notwithstanding that the interest in the property being claimed was
32 acquired from a defendant whose property interest would
33 otherwise have been subject to divestment pursuant to this
34 subdivision.

35 SEC. 15. Section 11470.4 of the Health and Safety Code is
36 amended to read:

37 11470.4. The provisions of this chapter apply to any minor
38 who has been found to be a person described in Section 602 of the
39 Welfare and Institutions Code because of a violation of Section

1 11351, ~~11351.5~~, 11352, 11355, 11366, 11366.5, 11366.6, 11378.5,
2 11379, 11379.5, 11379.6, or 11382.

3 SEC. 16. Section 11488 of the Health and Safety Code is
4 amended to read:

5 11488. (a) Any peace officer of this state, subsequent to
6 making or attempting to make an arrest for a violation of Section
7 11351, ~~11351.5~~, 11352, 11355, 11359, 11360, 11378, 11378.5,
8 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of
9 the Penal Code insofar as the offense involves manufacture, sale,
10 purchase for the purpose of sale, possession for sale or offer to
11 manufacture or sell, or conspiracy to commit one of those offenses,
12 may seize any item subject to forfeiture under subdivisions (a) to
13 (f), inclusive, of Section 11470. The peace officer shall also notify
14 the Franchise Tax Board of a seizure where there is reasonable
15 cause to believe that the value of the seized property exceeds five
16 thousand dollars (\$5,000).

17 (b) Receipts for property seized pursuant to this section shall be
18 delivered to any person out of whose possession such property was
19 seized, in accordance with Section 1412 of the Penal Code. In the
20 event property seized was not seized out of anyone's possession,
21 receipt for the property shall be delivered to the individual in
22 possession of the premises at which the property was seized.

23 (c) There shall be a presumption affecting the burden of proof
24 that the person to whom a receipt for property was issued is the
25 owner thereof. This presumption may, however, be rebutted at the
26 forfeiture hearing specified in Section 11488.5.

27 SEC. 17. Section 11571.1 of the Health and Safety Code is
28 amended to read:

29 11571.1. (a) To effectuate the purposes of this article, the city
30 prosecutor or city attorney may file, in the name of the people, an
31 action for unlawful detainer against any person who is in violation
32 of the nuisance or illegal purpose provisions of subdivision 4 of
33 Section 1161 of the Code of Civil Procedure, with respect to a
34 controlled substance purpose. In filing this action, the city
35 prosecutor or city attorney shall utilize the procedures set forth in
36 Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of
37 the Code of Civil Procedure, except that in cases filed under this
38 section, the following also shall apply:

39 (1) Prior to filing an action pursuant to this section, the city
40 prosecutor or city attorney shall give 15 calendar days written

1 notice to the owner, requiring the owner to file an action for the
 2 removal of the person who is in violation of the nuisance or illegal
 3 purpose provisions of subdivision 4 of Section 1161 of the Code
 4 of Civil Procedure with respect to a controlled substance purpose.
 5 This notice shall include sufficient documentation establishing a
 6 violation of the nuisance or illegal purpose provisions of
 7 subdivision 4 of Section 1161 of the Code of Civil Procedure and
 8 shall be served upon the owner and the tenant in accordance with
 9 subdivision (e) of this section. The owner shall, within 15 calendar
 10 days of the mailing of the written notice, either provide the city
 11 prosecutor or city attorney with all relevant information pertaining
 12 to the unlawful detainer case, or provide a written explanation
 13 setting forth any safety-related reasons for noncompliance, and an
 14 assignment to the city prosecutor or city attorney of the right to
 15 bring an unlawful detainer action against the tenant. The
 16 assignment shall be on a form provided by the city prosecutor or
 17 city attorney and may contain a provision for costs of
 18 investigation, discovery, and reasonable attorney's fees, in an
 19 amount not to exceed six hundred dollars (\$600). If the city
 20 prosecutor or city attorney accepts the assignment of the right of
 21 the owner to bring the unlawful detainer action, the owner shall
 22 retain all other rights and duties, including the handling of the
 23 tenant's personal property, following issuance of the writ of
 24 possession and its delivery to and execution by the appropriate
 25 agency.

26 (2) Upon the failure of the owner to file an action pursuant to
 27 this section, or to respond to the city prosecutor or city attorney as
 28 provided in paragraph (1), or having filed an action, if the owner
 29 fails to prosecute it diligently and in good faith, the city prosecutor
 30 or city attorney may file and prosecute the action, and join the
 31 owner as a defendant in the action. This action shall have
 32 precedence over any similar proceeding thereafter brought by the
 33 owner, or to one previously brought by the owner and not
 34 prosecuted diligently and in good faith. Service of the summons
 35 and complaint upon the defendant owner shall be in accordance
 36 with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the
 37 Code of Civil Procedure.

38 (3) If a jury or court finds the defendant tenant guilty of
 39 unlawful detainer in a case filed pursuant to paragraph (2), the city
 40 prosecutor or city attorney may be awarded costs, including the



1 costs of investigation and discovery and reasonable attorney's
2 fees. These costs shall be assessed against the defendant owner, to
3 whom notice was directed pursuant to paragraph (1), and once an
4 abstract of judgment is recorded, it shall constitute a lien on the
5 subject real property.

6 (4) Nothing in this article shall prevent a local governing body
7 from adopting and enforcing laws, consistent with this article
8 relating to drug abatement. Where local laws duplicate or
9 supplement this article, this article shall be construed as providing
10 alternative remedies and not preempting the field.

11 (5) Nothing in this article shall prevent a tenant from receiving
12 relief against a forfeiture of a lease pursuant to Section 1179 of the
13 Code of Civil Procedure.

14 (b) In any proceeding brought under this section, the court may,
15 upon a showing of good cause, issue a partial eviction ordering the
16 removal of any person, including, but not limited to, members of
17 the tenant's household if the court finds that the person has
18 engaged in the activities described in subdivision (a). Persons
19 removed pursuant to this section may be permanently barred from
20 returning to or reentering any portion of the entire premises. The
21 court may further order as an express condition of the tenancy that
22 the remaining tenants shall not give permission to or invite any
23 person who has been removed pursuant to this subdivision to
24 return to or reenter any portion of the entire premises.

25 (c) For the purposes of this section, "controlled substance
26 purpose" means the manufacture, cultivation, importation into the
27 state, transportation, possession, possession for sale, sale,
28 furnishing, administering, or giving away, or providing a place to
29 use or fortification of a place involving, cocaine, phencyclidine,
30 heroin, methamphetamine, or any other controlled substance, in a
31 violation of subdivision (a) of Section 11350, Section 11351,
32 ~~11351.5~~, 11352, or 11359, subdivision (a) of Section 11360, or
33 Section 11366, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5,
34 11379.6, or 11383, if the offense occurs on the subject real
35 property and is documented by the observations of a peace officer.

36 (d) Notwithstanding subdivision (b) of Section 68097.2 of the
37 Government Code, a public entity may waive all or part of the costs
38 incurred in furnishing the testimony of a peace officer in an
39 unlawful detainer action brought pursuant to this section.



(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall only apply to the following courts in the County of Los Angeles:

(1) Central District, downtown courthouse.

(2) Northwest District, Van Nuys branch.

(3) West District, West Los Angeles branch.

(4) Southeast District.

(5) South District, Long Beach.

(g) (1) The city attorney and city prosecutor shall provide to the Judicial Council the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of cases filed by an owner, upon notice.

(C) The number of assignments executed by owners to the city attorney or city prosecutor.

(D) The number of three-day or 30-day notices issued by the city attorney or city prosecutor.

(E) The number of cases filed by the city attorney or city prosecutor.

(F) The number of times that an owner is joined as a defendant pursuant to this section.

(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:

(i) The number of judgments (specify whether default, stipulated, or following trial).

(ii) The number of other dispositions (specify disposition).

(iii) The number of defendants represented by counsel.

(iv) Whether the case was a trial by the court or a trial by a jury.

1 (v) Whether an appeal was taken, and, if so, the result of the
2 appeal.

3 (vi) The number of cases in which partial eviction was
4 requested, and the number of cases in which the court ordered a
5 partial eviction.

6 (H) As to each case in which a notice was issued, but no case
7 was filed, the following information:

8 (i) The number of instances in which a tenant voluntarily
9 vacated the unit.

10 (ii) The number of instances in which a tenant vacated a unit
11 prior to the providing of the notice.

12 (iii) The number of other resolutions (specify resolution).

13 (2) Commencing January 1, 2002, information compiled
14 pursuant to this section shall be reported annually to the Judicial
15 Council on or before January 30 of each year. The Judicial Council
16 shall thereafter submit a brief report to the Senate and Assembly
17 Judiciary Committees on or before January 31, 2004, summarizing
18 the information collected pursuant to this section and evaluating
19 the merits of the pilot program established by this section.

20 (h) This section shall remain in effect only until January 1,
21 2005, and as of that date is repealed unless a later enacted statute
22 deletes or extends that date.

23 SEC. 18. Section 11590 of the Health and Safety Code, as
24 amended by Chapter 1417 of the Statutes of 1990, is amended to
25 read:

26 11590. (a) Except as provided in subdivisions (c) and (d), any
27 person who is convicted in the State of California of any offense
28 defined in Section 11350, 11351, ~~11351.5~~, 11352, 11353, 11353.5,
29 11353.7, 11354, 11355, 11357, 11358, 11359, 11360, 11361,
30 11363, 11366, 11366.5, 11366.6, 11368, 11378, 11378.5, 11379,
31 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, or
32 subdivision (a) of Section 11377, or any person who is discharged
33 or paroled from a penal institution where he or she was confined
34 because of the commission of any such offense, or any person who
35 is convicted in any other state of any offense which, if committed
36 or attempted in this state, would have been punishable as one or
37 more of the above-mentioned offenses, shall within 30 days of his
38 or her coming into any county or city, or city and county in which
39 he or she resides or is temporarily domiciled for that length of time,
40 register with the chief of police of the city in which he or she

1 resides or the sheriff of the county if he or she resides in an
2 unincorporated area.

3 For persons convicted of an offense defined in Section 11377,
4 11378, 11379, or 11380, this subdivision shall apply only to
5 offenses involving controlled substances specified in paragraph
6 (12) of subdivision (d) of Section 11054 and paragraph (2) of
7 subdivision (d) of Section 11055, and to analogs of these
8 substances, as defined in Section 11401. For persons convicted of
9 an offense defined in Section 11379 or 11379.5, this subdivision
10 shall not apply if the conviction was for transporting, offering to
11 transport, or attempting to transport a controlled substance.

12 (b) Any person who is convicted in any federal court of any
13 offense which, if committed or attempted in this state would have
14 been punishable as one or more of the offenses enumerated in
15 subdivision (a) shall within 30 days of his or her coming into any
16 county or city, or city and county in which he or she resides or is
17 temporarily domiciled for that length of time, register with the
18 chief of police of the city in which he or she resides or the sheriff
19 of the county if he or she resides in an unincorporated area.

20 (c) This section does not apply to a conviction of a
21 misdemeanor under Section 11357, 11360, or 11377.

22 (d) The registration requirements imposed by this section for
23 the conviction of offenses defined in Section 11353.7, 11366.5,
24 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380,
25 11380.5, or 11383, shall apply to any person who commits any of
26 those offenses on and after January 1, 1990.

27 SEC. 19. Section 11590 of the Health and Safety Code, as
28 amended by Chapter 714 of the Statutes of 1995, is amended to
29 read:

30 11590. (a) Except as provided in subdivisions (c) and (d), any
31 person who is convicted in the State of California of any offense
32 defined in Section 11350, 11351, ~~11351.5~~, 11352, 11353, 11353.5,
33 11353.7, 11354, 11355, 11357, 11358, 11359, 11360, 11361,
34 11363, 11366, 11366.5, 11366.6, 11368, 11370.1, 11378, 11378.5,
35 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, or
36 subdivision (a) of Section 11377, or any person who is discharged
37 or paroled from a penal institution where he or she was confined
38 because of the commission of any such offense, or any person who
39 is convicted in any other state of any offense which, if committed
40 or attempted in this state, would have been punishable as one or

1 more of the above-mentioned offenses, shall within 30 days of his
2 or her coming into any county or city, or city and county in which
3 he or she resides or is temporarily domiciled for that length of time,
4 register with the chief of police of the city in which he or she
5 resides or the sheriff of the county if he or she resides in an
6 unincorporated area.

7 For persons convicted of an offense defined in Section 11377,
8 11378, 11379, or 11380, this subdivision shall apply only to
9 offenses involving controlled substances specified in paragraph
10 (12) of subdivision (d) of Section 11054 and paragraph (2) of
11 subdivision (d) of Section 11055, and to analogs of these
12 substances, as defined in Section 11401. For persons convicted of
13 an offense defined in Section 11379 or 11379.5, this subdivision
14 shall not apply if the conviction was for transporting, offering to
15 transport, or attempting to transport a controlled substance.

16 (b) Any person who is convicted in any federal court of any
17 offense which, if committed or attempted in this state would have
18 been punishable as one or more of the offenses enumerated in
19 subdivision (a) shall, within 30 days of his or her coming into any
20 county or city, or city and county, in which he or she resides or is
21 temporarily domiciled for that length of time, register with the
22 chief of police of the city in which he or she resides or the sheriff
23 of the county if he or she resides in an unincorporated area.

24 (c) This section does not apply to a conviction of a
25 misdemeanor under Section 11357, 11360, or 11377.

26 (d) The registration requirements imposed by this section for
27 the conviction of offenses defined in Section 11353.7, 11366.5,
28 11366.6, 11370.1, 11377, 11378, 11378.5, 11379, 11379.5,
29 11379.6, 11380, 11380.5, or 11383, shall apply to any person who
30 commits any of those offenses on and after January 1, 1990.

31 SEC. 20. Section 629.52 of the Penal Code is amended to
32 read:

33 629.52. Upon application made under Section 629.50, the
34 judge may enter an ex parte order, as requested or modified,
35 authorizing interception of wire, electronic pager, or electronic
36 cellular telephone communications initially intercepted within the
37 territorial jurisdiction of the court in which the judge is sitting, if
38 the judge determines, on the basis of the facts submitted by the
39 applicant, all of the following:



(a) There is probable cause to believe that an individual is committing, has committed, or is about to commit, one of the following offenses:

(1) Importation, possession for sale, transportation, manufacture, or sale of controlled substances in violation of Section 11351, ~~11351.5~~, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code with respect to a substance containing heroin, cocaine, PCP, methamphetamine, or their precursors or analogs where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight.

(2) Murder, solicitation to commit murder, the commission of a felony involving a destructive device in violation of Section 12303, 12303.1, 12303.2, 12303.3, 12303.6, 12308, 12309, 12310, or 12312, or a violation of Section 209.

(3) Any felony violation of Section 186.22.

(4) Any felony violation of Section 11418, relating to weapons of mass destruction, Section 11418.5, relating to threats to use weapons of mass destruction, or Section 11419, relating to restricted biological agents.

(5) An attempt or conspiracy to commit any of the above-mentioned crimes.

(b) There is probable cause to believe that particular communications concerning the illegal activities will be obtained through that interception, including, but not limited to, communications that may be utilized for locating or rescuing a kidnap victim.

(c) There is probable cause to believe that the facilities from which, or the place where, the wire, electronic pager, or electronic cellular telephone communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

(d) Normal investigative procedures have been tried and have failed or reasonably appear either to be unlikely to succeed if tried or to be too dangerous.

SEC. 21. Section 666.7 of the Penal Code is amended to read: 666.7. It is the intent of the Legislature that this section serve merely as a nonsubstantive comparative reference of current sentence enhancement provisions. Nothing in this section shall

1 have any substantive effect on the application of any sentence
2 enhancement contained in any provision of law, including, but not
3 limited to, all of the following: omission of any sentence
4 enhancement provision, inclusion of any obsolete sentence
5 enhancement provision, or inaccurate reference or summary of a
6 sentence enhancement provision.

7 It is the intent of the Legislature to amend this section as
8 necessary to accurately reflect current sentence enhancement
9 provisions, including the addition of new provisions and the
10 deletion of obsolete provisions.

11 For the purposes of this section, the term “sentence
12 enhancement” means an additional term of imprisonment in the
13 state prison added to the base term for the underlying offense. A
14 sentence enhancement is imposed because of the nature of the
15 offense at the time the offense was committed or because the
16 defendant suffered a qualifying prior conviction before
17 committing the current offense.

18 (a) The provisions listed in this subdivision imposing a
19 sentence enhancement of one year imprisonment in the state prison
20 may be referenced as Schedule A.

21 (1) Money laundering when the value of transactions exceeds
22 fifty thousand dollars (\$50,000), but is less than one hundred fifty
23 thousand dollars (\$150,000) (subpara. (A), para. (1), subd. (c),
24 Sec. 186.10, Pen. C.).

25 (2) Commission of two or more related felonies, a material
26 element of which is fraud or embezzlement, which involve a
27 pattern of related felony conduct, involving the taking of more
28 than one hundred thousand dollars (\$100,000) (para. (3), subd. (a),
29 Sec. 186.11, Pen. C.).

30 (3) Felony conviction of willful harm or injury to a child,
31 involving female genital mutilation (subd. (a), Sec. 273.4, Pen.
32 C.).

33 (4) Prior conviction of felony hate crime with a current
34 conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

35 (5) Harming, obstructing, or interfering with any horse or dog
36 being used by any peace officer in the discharge or attempted
37 discharge of his or her duties and, with the intent to so harm,
38 obstruct, or interfere, personally causing the death, destruction, or
39 serious physical injury of any horse or dog (subd. (c), Sec. 600,
40 Pen. C.).



1 (6) Prior prison term with current felony conviction (subd. (b),
2 Sec. 667.5, Pen. C.).

3 (7) Commission of any specified offense against a person who
4 is 65 years of age or older, blind, a paraplegic or quadriplegic, or
5 under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

6 (8) Showing child pornography to a minor prior to or during the
7 commission or attempted commission of any lewd or lascivious
8 act with the minor (subd. (a), Sec. 667.15, Pen. C.).

9 (9) Felony conviction of forgery, grand theft, or false pretenses
10 as part of plan or scheme to defraud an owner in connection with
11 repairs to a structure damaged by a natural disaster (subd. (a), Sec.
12 667.16, Pen. C.).

13 (10) Impersonating a peace officer during the commission of a
14 felony (Sec. 667.17, Pen. C.).

15 (11) Felony conviction of any specified offense, including, but
16 not limited to, forgery, grand theft, and false pretenses, as part of
17 plan or scheme to defraud an owner in connection with repairs to
18 a structure damaged by natural disaster with a prior felony
19 conviction of any of those offenses (subd. (c), Sec. 670, Pen. C.).

20 (12) Commission or attempted commission of a felony while
21 armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

22 (13) Personally using a deadly or dangerous weapon in the
23 commission or attempted commission of a felony (para. (1), subd.
24 (b), Sec. 12022, Pen. C.).

25 (14) Taking, damaging, or destroying any property in the
26 commission or attempted commission of a felony with the intent
27 to cause that taking, damage, or destruction when the loss exceeds
28 fifty thousand dollars (\$50,000) (para. (1), subd. (a), Sec. 12022.6,
29 Pen. C.).

30 (15) Transferring, lending, selling, or giving any assault
31 weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

32 (16) Manufacturing, causing to be manufactured, distributing,
33 transporting, importing, keeping for sale, offering or exposing for
34 sale, giving, or lending any assault weapon while committing
35 another crime (subd. (d), Sec. 12280, Pen. C.).

36 (17) Inducing, employing, or using a minor to commit a drug
37 offense involving heroin, cocaine, or cocaine base, or unlawfully
38 furnishing one of these controlled substances to a minor, upon the
39 grounds of, or within, a church, playground, youth center, child
40 day care facility, or public swimming pool during business hours

1 or whenever minors are using the facility (para. (1), subd. (a), Sec.
2 11353.1, H.& S.C.).

3 (18) Inducing another person to commit a drug offense as part
4 of the drug transaction for which the defendant is convicted when
5 the value of the controlled substance involved exceeds five
6 hundred thousand dollars (\$500,000) (para. (1), subd. (a), Sec.
7 11356.5, H.& S.C.).

8 (19) Manufacturing, compounding, converting, producing,
9 deriving, processing, or preparing methamphetamine or
10 phencyclidine (PCP), or attempting to commit any of those acts,
11 or possessing specified combinations of substances with the intent
12 to manufacture either methamphetamine or phencyclidine (PCP),
13 when the commission or attempted commission of the offense
14 causes the death or great bodily injury of another person other than
15 an accomplice (subd. (a), Sec. 11379.9, H.& S.C.).

16 (20) Using a minor to commit a drug offense involving
17 phencyclidine (PCP), methamphetamine, or lysergic acid
18 diethylamide (LSD), or unlawfully furnishing one of these
19 controlled substances to a minor, when the commission of the
20 offense occurs upon the grounds of, or within, a church,
21 playground, youth center, child day care facility, or public
22 swimming pool during business hours or whenever minors are
23 using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

24 (21) Possessing for sale, or selling, heroin, cocaine, cocaine
25 base, methamphetamine, or phencyclidine (PCP), when the
26 commission of the offense occurs upon the grounds of a public
27 park, public library, or oceanfront beach (para. (1), subd. (a), Sec.
28 11380.5, H.& S.C.).

29 (22) Causing bodily injury or death to more than one victim in
30 any one instance of driving under the influence of any alcoholic
31 beverage or drug (Sec. 23558, Veh. C.).

32 (23) Fraudulently appropriating food stamps, electronically
33 transferred benefits, or authorizations to participate in the federal
34 Food Stamp Program entrusted to a public employee, or
35 knowingly using, transferring, selling, purchasing, or possessing
36 any of the same in an unauthorized manner, when the offense is
37 committed by means of an electronic transfer of benefits in an
38 amount exceeding fifty thousand dollars (\$50,000), but less than
39 one hundred fifty thousand dollars (\$150,000) (subpara. (A), para.
40 (1), subd. (h), Sec. 10980, W.& I.C.).

(b) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or three years' imprisonment in the state prison may be referenced as Schedule B.

(1) Commission or attempted commission of a felony hate crime (subd. (a), Sec. 422.75, Pen. C.).

(2) Commission or attempted commission of a felony against the property of a public or private institution because the property is associated with a person or group of identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

(3) Felony conviction of unlawfully causing a fire of any structure, forest land, or property when the defendant has been previously convicted of arson or unlawfully causing a fire, or when a firefighter, peace officer, or emergency personnel suffered great bodily injury, or when the defendant proximately caused great bodily injury to more than one victim, or caused multiple structures to burn (subd. (a), Sec. 452.1, Pen. C.).

(4) Carrying a loaded or unloaded firearm during the commission or attempted commission of any felony street gang crime (subd. (a), Sec. 12021.5, Pen. C.).

(5) Personally using a deadly or dangerous weapon in the commission of carjacking or attempted carjacking (para. (2), subd. (b), Sec. 12022, Pen. C.).

(6) Being a principal in the commission or attempted commission of any specified drug offense, knowing that another principal is personally armed with a firearm (subd. (d), Sec. 12022, Pen. C.).

(7) Furnishing or offering to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony (Sec. 12022.4, Pen. C.).

(8) Selling, supplying, delivering, or giving possession or control of a firearm to any person within a prohibited class or to a minor when the firearm is used in the subsequent commission of a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).

(9) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, heroin, cocaine, and cocaine base, or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11353.1, H.& S.C.).

~~(10) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor that resulted in a prison sentence with a current conviction of the same offense (subd. (a), Sec. 11353.4, H.& S.C.).~~

~~(11) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor with a current conviction of the same offense involving a minor who is 14 years of age or younger (subd. (b), Sec. 11353.4, H.& S.C.).~~

~~(12) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, phencyclidine (PCP), methamphetamine, and lysergic acid diethylamide (LSD), or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1, H.& S.C.).~~

~~(13)~~

~~(11) Causing great bodily injury or a substantial probability that death could result by the knowing disposal, transport, treatment, storage, burning, or incineration of any hazardous waste at a facility without permits or at an unauthorized point (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).~~

(c) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or five years' imprisonment in the state prison may be referenced as Schedule C.

(1) Wearing a bullet-resistant body vest in the commission or attempted commission of a violent offense (subd. (b), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while armed with a firearm or deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).

(d) The provisions listed in this subdivision imposing a sentence enhancement of 16 months, or two or three years' imprisonment in the state prison may be referenced as Schedule D.

(1) Knowing failure to register pursuant to Section 186.30 and subsequent conviction or violation of Section 186.30, as specified (para. (1), subd. (b), Sec. 186.33, Pen. C.).

1 (e) The provisions listed in this subdivision imposing a
2 sentence enhancement of two years' imprisonment in the state
3 prison may be referenced as Schedule E.

4 (1) Money laundering when the value of the transactions
5 exceeds one hundred fifty thousand dollars (\$150,000), but is less
6 than one million dollars (\$1,000,000) (subpara. (B), para. (1),
7 subd. (c), Sec. 186.10, Pen. C.).

8 (2) Commission of two or more related felonies, a material
9 element of which is fraud or embezzlement, which involve a
10 pattern of related felony conduct, involving the taking of more
11 than one hundred fifty thousand dollars (\$150,000) (para. (3),
12 subd. (a), Sec. 186.11, Pen. C.).

13 (3) Conviction of any specified felony sex offense that is
14 committed after fleeing to this state under specified circumstances
15 (subd. (d), Sec. 289.5, Pen. C.).

16 (4) Prior conviction of any specified insurance fraud offense
17 with current conviction of willfully injuring, destroying,
18 secreting, abandoning, or disposing of any property insured
19 against loss or damage by theft, embezzlement, or any casualty
20 with the intent to defraud or prejudice the insurer (subd. (b), Sec.
21 548, Pen. C.).

22 (5) Prior conviction of any specified insurance fraud offense
23 with current conviction of knowingly presenting any false or
24 fraudulent insurance claim or multiple claims for the same loss or
25 injury, or knowingly causing or participating in a vehicular
26 collision for the purpose of presenting any false or fraudulent
27 claim, or providing false or misleading information or concealing
28 information for purpose of insurance fraud (subd. (e), Sec. 550,
29 Pen. C.).

30 (6) Causing serious bodily injury as a result of knowingly
31 causing or participating in a vehicular collision or accident for the
32 purpose of presenting any false or fraudulent claim (subd. (g), Sec.
33 550, Pen. C.).

34 (7) Harming, obstructing, or interfering with any horse or dog
35 being used by any peace officer in the discharge or attempted
36 discharge of his or her duties and, with the intent to cause great
37 bodily injury, personally causing great bodily injury to any person
38 other than an accomplice (subd. (d), Sec. 600, Pen. C.).

39 (8) Prior conviction of any specified offense with current
40 conviction of any of those offenses committed against a person

1 who is 65 years of age or older, blind, a paraplegic or quadriplegic,
2 or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).

3 (9) Prior conviction for sexual penetration with current
4 conviction of the same offense committed against a person who is
5 65 years of age or older, blind, deaf, developmentally disabled, a
6 paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec.
7 667.10, Pen. C.).

8 (10) Showing child pornography to a minor prior to or during
9 the commission or attempted commission of continuous sexual
10 abuse of the minor (subd. (b), Sec. 667.15, Pen. C.).

11 (11) Primary care provider in a day care facility committing
12 any specified felony sex offense against a minor entrusted to his
13 or her care (subd. (a), Sec. 674, Pen. C.).

14 (12) Commission of a felony offense while released from
15 custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen.
16 C.).

17 (13) Taking, damaging, or destroying any property in the
18 commission or attempted commission of a felony with the intent
19 to cause that taking, damage, or destruction when the loss exceeds
20 one hundred fifty thousand dollars (\$150,000) (para. (2), subd. (a),
21 Sec. 12022.6, Pen. C.).

22 (14) Inducing, employing, or using a minor to commit a drug
23 offense involving heroin, cocaine, or cocaine base, or unlawfully
24 furnishing one of these controlled substances to a minor, upon, or
25 within 1,000 feet of, the grounds of a school during school hours
26 or whenever minors are using the facility (para. (2), subd. (a), Sec.
27 11353.1, H.& S.C.).

28 (15) Inducing another person to commit a drug offense as part
29 of the drug transaction for which the defendant is convicted when
30 the value of the controlled substance involved exceeds two million
31 dollars (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

32 (16) Manufacturing, compounding, converting, producing,
33 deriving, processing, or preparing methamphetamine or
34 phencyclidine (PCP), or attempting to commit any of those acts,
35 or possessing specified combinations of substances with the intent
36 to manufacture either methamphetamine or phencyclidine (PCP),
37 when the commission or attempted commission of the crime
38 occurs in a structure where any child under 16 years of age is
39 present (subd. (a), Sec. 11379.7, H.& S.C.).



(17) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

(18) Prior felony conviction of any specified insurance fraud offense with a current conviction of making false or fraudulent statements concerning a workers' compensation claim (subd. (c), Sec. 1871.4, Ins. C.).

(19) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).

(20) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance issued or administered by the State Compensation Insurance Fund for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

(21) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one hundred fifty thousand dollars (\$150,000), but less than one million dollars (\$1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(f) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or four years' imprisonment in the state prison may be referenced as Schedule F.

(1) Commission of a felony, other than a serious or violent felony, for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (subpara. (A), para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Acting in concert with another person or aiding or abetting another person in committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device during the commission or attempted commission of any felony street gang crime (subd. (b), Sec. 12021.5, Pen. C.).

(g) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or five years' imprisonment in the state prison may be referenced as Schedule G.

(1) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than five hundred thousand dollars (\$500,000) (para. (2), subd. (a), Sec. 186.11, Pen. C.).

(h) The provisions listed in this subdivision imposing a sentence enhancement of three years' imprisonment in the state prison may be referenced as Schedule H.

(1) Money laundering when the value of transactions exceeds one million dollars (\$1,000,000), but is less than two million five hundred thousand dollars (\$2,500,000) (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Solicitation, recruitment, or coercion, of a minor to actively participate in a criminal street gang (subd. (d), Sec. 186.26, Pen. C.).

(3) Willfully mingling any poison or harmful substance which may cause death if ingested, or which causes the infliction of great bodily injury on any person, with any food, drink, medicine, or pharmaceutical product or willfully placing that poison or harmful substance in any spring, well, reservoir, or public water supply (para. (2), subd. (a), Sec. 347, Pen. C.).

(4) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (2), subd. (b), Sec. 368, Pen. C.).

(5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws and causing bodily

1 injury to another person other than an accomplice (subd. (b), Sec.
2 593a, Pen. C.).

3 (6) Prior prison term for violent felony with current violent
4 felony conviction (subd. (a), Sec. 667.5, Pen. C.).

5 (7) Commission of any specified felony sex offense by a
6 primary care provider in a day care facility against a minor
7 entrusted to his or her care while voluntarily acting in concert with
8 another (subd. (b), Sec. 674, Pen. C.).

9 (8) Commission or attempted commission of a felony while
10 armed with an assault weapon or a machinegun (para. (2), subd.
11 (a), Sec. 12022, Pen. C.).

12 (9) Taking, damaging, or destroying any property in the
13 commission or attempted commission of a felony with the intent
14 to cause that taking, damage, or destruction when the loss exceeds
15 one million dollars (\$1,000,000) (para. (3), subd. (a), Sec.
16 12022.6, Pen. C.).

17 (10) Personally inflicting great bodily injury on any person
18 other than an accomplice in the commission or attempted
19 commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

20 (11) Administering by injection, inhalation, ingestion, or any
21 other means, any specified controlled substance against the
22 victim's will by means of force, violence, or fear of immediate and
23 unlawful bodily injury to the victim or another person for the
24 purpose of committing a felony (Sec. 12022.75, Pen. C.).

25 (12) Commission of any specified sex offense with knowledge
26 that the defendant has acquired immune deficiency syndrome
27 (AIDS) or with the knowledge that he or she carries antibodies of
28 the human immunodeficiency virus at the time of the commission
29 of the offense (subd. (a), Sec. 12022.85, Pen. C.).

30 (13) Inducing another person to commit a drug offense as part
31 of the drug transaction for which the defendant is convicted when
32 the value of the controlled substance involved exceeds five million
33 dollars (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

34 (14) Prior conviction of any specified drug offense with current
35 conviction of any specified drug offense (subds. (a), (b), and (c),
36 Sec. 11370.2, H.& S.C.).

37 (15) Commission of any specified drug offense involving a
38 substance containing heroin, cocaine base, cocaine,
39 methamphetamine, amphetamine, or phencyclidine (PCP), when

1 the substance exceeds one kilogram or 30 liters (para. (1), subd.
2 (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

3 (16) Manufacturing, compounding, converting, producing,
4 deriving, processing, or preparing any substance containing
5 amphetamine, methamphetamine, or phencyclidine (PCP) or its
6 analogs or precursors, or attempting to commit any of those acts,
7 when the substance exceeds three gallons or one pound (para. (1),
8 subd. (a), Sec. 11379.8, H.& S.C.).

9 (17) Four or more prior convictions of specified
10 alcohol-related vehicle offenses with current conviction of driving
11 under the influence and causing great bodily injury (subd. (c), Sec.
12 23566, Veh. C.).

13 (18) Fraudulently appropriating food stamps, electronically
14 transferred benefits, or authorizations to participate in the federal
15 Food Stamp Program entrusted to a public employee, or
16 knowingly using, transferring, selling, purchasing, or possessing,
17 any of the same in an unauthorized manner, when the offense is
18 committed by means of an electronic transfer of benefits in an
19 amount exceeding one million dollars (\$1,000,000), but less than
20 two million five hundred thousand dollars (\$2,500,000) (subpara.
21 (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

22 (i) The provisions listed in this subdivision imposing a
23 sentence enhancement of three, four, or five years' imprisonment
24 in the state prison may be referenced as Schedule I.

25 (1) Commission of felony arson with prior conviction of arson
26 or unlawfully starting a fire, or causing great bodily injury to a
27 firefighter, peace officer, other emergency personnel, or multiple
28 victims, or causing the burning of multiple structures, or using an
29 accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen.
30 C.).

31 (2) Commission or attempted commission of any specified
32 drug offense while personally armed with a firearm (subd. (c), Sec.
33 12022, Pen. C.).

34 (3) Personally inflicting great bodily injury under
35 circumstances involving domestic violence in the commission or
36 attempted commission of a felony (subd. (e), Sec. 12022.7, Pen.
37 C.).

38 (4) Commission of any specified drug offense involving
39 cocaine base, heroin, or methamphetamine, or a conspiracy to
40 commit any of those offenses, upon the grounds of, or within 1,000



1 feet of, a school during school hours or when minors are using the
2 facility (subd. (b), Sec. 11353.6, H.& S.C.).

3 (5) Commission of any specified drug offense involving
4 cocaine base, heroin, or methamphetamine, or a conspiracy to
5 violate any of those offenses, involving a minor who is at least four
6 years younger than the defendant (subd. (c), Sec. 11353.6, H.&
7 S.C.).

8 (j) The provisions listed in this subdivision imposing a
9 sentence enhancement of 3, 4, or 10 years' imprisonment in the
10 state prison may be referenced as Schedule J.

11 (1) Commission or attempted commission of any felony while
12 armed with a firearm and in the immediate possession of
13 ammunition for the firearm designed primarily to penetrate metal
14 or armor (subd. (a), Sec. 12022.2, Pen. C.).

15 (2) Commission or attempted commission of any specified sex
16 offense while using a firearm or deadly weapon (subd. (a), Sec.
17 12022.3, Pen. C.).

18 (3) Commission or attempted commission of a felony while
19 personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen.
20 C.).

21 (4) Commission or attempted commission of any specified
22 drug offense while personally using a firearm (subd. (c), Sec.
23 12022.5, Pen. C.).

24 (k) The provisions listed in this subdivision imposing a
25 sentence enhancement of four years' imprisonment in the state
26 prison may be referenced as Schedule K.

27 (1) Money laundering when the value of transactions exceeds
28 two million five hundred thousand dollars (\$2,500,000) (subpara.
29 (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

30 (2) Prior conviction of willfully inflicting upon a child any
31 cruel or inhuman corporal punishment or injury resulting in a
32 traumatic condition with current conviction of that offense (subd.
33 (b), Sec. 273d, Pen. C.).

34 (3) Taking, damaging, or destroying any property in the
35 commission or attempted commission of a felony with the intent
36 to cause that taking, damage, or destruction when the loss exceeds
37 two million five hundred thousand dollars (\$2,500,000) (para. (4),
38 subd. (a), Sec. 12022.6, Pen. C.).

39 (4) Personally, willfully, and maliciously discharging a firearm
40 from a motor vehicle at another person other than an occupant of



1 a motor vehicle and causing a victim to suffer paralysis or
2 paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9,
3 Pen. C.).

4 (5) Personally, willfully, and maliciously discharging a firearm
5 from a motor vehicle at another occupied motor vehicle and
6 causing a victim to suffer paralysis or paraparesis of a major body
7 part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).

8 (6) Willfully causing or permitting any child to suffer, or
9 inflicting on the child unjustifiable physical pain or injury that
10 results in death under circumstances or conditions likely to
11 produce great bodily harm or death, or, having the care or custody
12 of any child, willfully causing or permitting that child to be injured
13 or harmed under circumstances likely to produce great bodily
14 harm or death, when that injury or harm results in death (Sec.
15 12022.95, Pen. C.).

16 (7) Fraudulently appropriating food stamps, electronically
17 transferred benefits, or authorizations to participate in the federal
18 Food Stamp Program entrusted to a public employee, or
19 knowingly using, transferring, selling, purchasing, or possessing,
20 any of the same in an unauthorized manner, when the offense is
21 committed by means of an electronic transfer of benefits in an
22 amount exceeding two million five hundred thousand dollars
23 (\$2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.&
24 I.C.).

25 (8) Execution of a scheme or artifice to defraud the Medi-Cal
26 program or any other health care program administered by the
27 State Department of Health Services or its agents or contractors,
28 or to obtain under false or fraudulent pretenses, representations, or
29 promises any property owned by or under the custody of the
30 Medi-Cal program or any health care program administered by the
31 department, its agents, or contractors under circumstances likely
32 to cause or that do cause two or more persons great bodily injury
33 (subd. (d), Sec. 14107, W.& I.C.).

34 (I) The provisions listed in this subdivision imposing a
35 sentence enhancement of four, five, or six years' imprisonment in
36 the state prison may be referenced as Schedule L.

37 (1) Personally inflicting great bodily injury on a child under the
38 age of five years in the commission or attempted commission of
39 a felony (subd. (d), Sec. 12022.7, Pen. C.).



1 (m) The provisions listed in this subdivision imposing a
2 sentence enhancement of 4, 5, or 10 years' imprisonment in the
3 state prison may be referenced as Schedule M.

4 (1) Commission or attempted commission of a felony while
5 personally using a firearm with prior conviction of carjacking or
6 attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

7 (n) The provisions listed in this subdivision imposing a
8 sentence enhancement of five years' imprisonment in the state
9 prison may be referenced as Schedule N.

10 (1) Commission of a serious felony for the benefit of, at the
11 direction of, or in association with, any criminal street gang, with
12 the specific intent to promote, further, or assist in any criminal
13 conduct by gang members (subpara. (B), para. (1), subd. (b), Sec.
14 186.22, Pen. C.).

15 (2) Using sex offender registration information to commit a
16 felony (para. (1), subd. (q), Sec. 290, and para. (1), subd. (b), Sec.
17 290.4, Pen. C.).

18 (3) Causing great bodily injury by willfully causing or
19 permitting any elder or dependent adult to suffer, or inflicting pain
20 or mental suffering upon, or endangering the health of, an elder or
21 dependent adult when the victim is 70 years of age or older
22 (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

23 (4) Causing death by willfully causing or permitting any elder
24 or dependent adult to suffer, or inflicting pain or mental suffering
25 upon, or endangering the health of, an elder or dependent adult
26 when the victim is under 70 years of age (subpara. (A), para. (3),
27 subd. (b), Sec. 368, Pen. C.).

28 (5) Two prior felony convictions of knowingly causing or
29 participating in a vehicular collision or accident for the purpose of
30 presenting any false or fraudulent claim with current conviction of
31 the same (subd. (f), Sec. 550, Pen. C.).

32 (6) Prior conviction of a serious felony with current conviction
33 of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

34 (7) Prior conviction of any specified sex offense with current
35 conviction of lewd and lascivious acts with a child under 14 years
36 of age (subd. (a), Sec. 667.51, Pen. C.).

37 (8) Prior conviction of any specified sex offense with current
38 conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen.
39 C.).

1 (9) Kidnapping or carrying away any child under 14 years of
2 age with the intent to permanently deprive the parent or legal
3 guardian custody of that child (Sec. 667.85, Pen. C.).

4 (10) Personally inflicting great bodily injury on any person
5 other than an accomplice in the commission or attempted
6 commission of a felony that causes the victim to become comatose
7 due to a brain injury or to suffer paralysis of a permanent nature
8 (subd. (b), Sec. 12022.7, Pen. C.).

9 (11) Personally inflicting great bodily injury on another person
10 who is 70 years of age or older other than an accomplice in the
11 commission or attempted commission of a felony (subd. (c), Sec.
12 12022.7, Pen. C.).

13 (12) Inflicting great bodily injury on any victim in the
14 commission or attempted commission of any specified sex offense
15 (Sec. 12022.8, Pen. C.).

16 (13) Personally and intentionally inflicting injury upon a
17 pregnant woman during the commission or attempted commission
18 of a felony that results in the termination of the pregnancy when
19 the defendant knew or reasonably should have known that the
20 victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).

21 (14) Using information disclosed to the licensee of a
22 community care facility by a prospective client regarding his or her
23 status as a sex offender to commit a felony (subd. (c), Sec. 1522.01,
24 H.& S.C.).

25 (15) Commission of any specified drug offense involving a
26 substance containing heroin, cocaine base, cocaine,
27 methamphetamine, amphetamine, or phencyclidine (PCP), when
28 the substance exceeds 4 kilograms or 100 liters (para. (2), subd.
29 (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

30 (16) Manufacturing, compounding, converting, producing,
31 deriving, processing, or preparing methamphetamine or
32 phencyclidine (PCP), or attempting to commit any of those acts,
33 or possessing specified combinations of substances with the intent
34 to manufacture either methamphetamine or phencyclidine (PCP),
35 when the commission of the crime causes any child under 16 years
36 of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.&
37 S.C.).

38 (17) Manufacturing, compounding, converting, producing,
39 deriving, processing, or preparing any substance containing
40 amphetamine, methamphetamine, or phencyclidine (PCP) or its



1 analogs or precursors, or attempting to commit any of those acts,
2 when the substance exceeds 10 gallons or three pounds (para. (2),
3 subd. (a), Sec. 11379.8, H.& S.C.).

4 (18) Fleeing the scene of the crime after commission of
5 vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

6 (o) The provisions listed in this subdivision imposing a
7 sentence enhancement of 5, 6, or 10 years' imprisonment in the
8 state prison may be referenced as Schedule O.

9 (1) Discharging a firearm at an occupied motor vehicle in the
10 commission or attempted commission of a felony which caused
11 great bodily injury or death to another person (para. (1), subd. (b),
12 Sec. 12022.5, Pen. C.).

13 (2) Commission or attempted commission of a felony while
14 personally using an assault weapon or a machinegun (para. (2),
15 subd. (b), Sec. 12022.5, Pen. C.).

16 (3) Discharging a firearm from a motor vehicle in the
17 commission or attempted commission of a felony with the intent
18 to inflict great bodily injury or death and causing great bodily
19 injury or death (Sec. 12022.55, Pen. C.).

20 (p) The provisions listed in this subdivision imposing a
21 sentence enhancement of seven years' imprisonment in the state
22 prison may be referenced as Schedule P.

23 (1) Causing death by willfully causing or permitting any elder
24 or dependent adult to suffer, or inflicting pain or mental suffering
25 upon, or endangering the health of, an elder or dependent adult
26 when the victim is 70 years of age or older (subpara. (B), para. (3),
27 subd. (b), Sec. 368, Pen. C.).

28 (q) The provisions listed in this subdivision imposing a
29 sentence enhancement of nine years' imprisonment in the state
30 prison may be referenced as Schedule Q.

31 (1) Kidnapping a victim for the purpose of committing any
32 specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

33 (r) The provisions listed in this subdivision imposing a
34 sentence enhancement of 10 years' imprisonment in the state
35 prison may be referenced as Schedule R.

36 (1) Commission of a violent felony for the benefit of, at the
37 direction of, or in association with, any criminal street gang, with
38 the specific intent to promote, further, or assist in any criminal
39 conduct by gang members (subpara. (C), para. (1), subd. (b), Sec.
40 186.22, Pen. C.).

(2) Two or more prior prison terms for any specified sex offense with current conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).

(3) Commission or attempted commission of any specified felony offense while personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).

(4) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 10 kilograms or 200 liters (para. (3), subd. (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

(5) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd. (a), Sec. 11379.8, H.& S.C.).

(s) The provisions listed in this subdivision imposing a sentence enhancement of 15 years' imprisonment in the state prison may be referenced as Schedule S.

(1) Kidnapping a victim under 14 years of age for the purpose of committing any specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

(3) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 105 gallons or 44 pounds (para. (4), subd. (a), Sec. 11379.8, H.& S.C.).

(t) The provisions listed in this subdivision imposing a sentence enhancement of 20 years' imprisonment in the state prison may be referenced as Schedule T.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense (subd. (c), Sec. 12022.53, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4, H.& S.C.).

(u) The provisions listed in this subdivision imposing a sentence enhancement of 25 years' imprisonment in the state prison may be referenced as Schedule U.

(1) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4, H.& S.C.).

(v) The provisions listed in this subdivision imposing a sentence enhancement of 25 years to life imprisonment in the state prison may be referenced as Schedule V.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense and proximately causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

SEC. 22. Section 999e of the Penal Code is amended to read:

999e. (a) An individual who is under arrest for the commission or attempted commission of one or more of the felonies listed in paragraph (1) and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of those felonies, or has been convicted during the preceding 10 years for any felony listed in paragraph (2) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (3) of this subdivision shall be the subject of career criminal prosecution efforts.

(1) Murder, manslaughter, rape, sexual assault, child molestation, robbery, carjacking, burglary, arson, receiving stolen property, grand theft, grand theft auto, lewd and lascivious conduct upon a child, assault with a firearm, discharging a firearm into an inhabited structure or vehicle, owning, possessing, or having custody or control of a firearm, as specified in subdivision (a) or (b) of Section 12021, or any unlawful act relating to controlled substances in violation of Sections 11351, ~~11351.5~~, 11352, or 11378 of the Health and Safety Code.

(2) Robbery of the first degree, carjacking, burglary of the first degree, arson as defined in Section 451, unlawfully causing a fire

1 as defined in Section 452, forcible rape, sodomy or oral copulation
2 committed with force, lewd or lascivious conduct committed upon
3 a child, kidnapping as defined in Section 209 or 209.5, murder, or
4 manslaughter.

5 (3) Grand theft, grand theft auto, receiving stolen property,
6 robbery of the second degree, burglary of the second degree,
7 kidnapping as defined in Section 207, assault with a deadly
8 weapon or instrument, or any unlawful act relating to controlled
9 substances in violation of Section 11351 or 11352 of the Health
10 and Safety Code.

11 For purposes of this chapter, the 10-year periods specified in this
12 section shall be exclusive of any time which the arrested person has
13 served in state prison.

14 (b) In applying the career criminal selection criteria set forth
15 above, a district attorney may elect to limit career criminal
16 prosecution efforts to persons arrested for any one or more of the
17 felonies listed in subdivision (a) of this section if crime statistics
18 demonstrate that the incidence of one or more of these felonies
19 presents a particularly serious problem in the county.

20 (c) In exercising the prosecutorial discretion granted by
21 Section 999g, the district attorney shall consider the character,
22 background, and prior criminal background of the defendant, and
23 the number and the seriousness of the offenses currently charged
24 against the defendant.

25 SEC. 23. Section 1170.11 of the Penal Code is amended to
26 read:

27 1170.11. As used in Section 1170.1, the term “specific
28 enhancement” means enhancements that relate to the
29 circumstances of the crime. It includes, but is not limited to, the
30 enhancements provided in Sections 186.10, 186.11, 186.22,
31 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368,
32 subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2),
33 (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2),
34 (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of
35 Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10,
36 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3,
37 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7,
38 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and
39 12280 of this code, and in Sections 1522.01 and 11353.1,
40 ~~subdivision (b) of Section 11353.4~~, Sections 11353.6, 11356.5,

1 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 25189.5, and
2 25189.7 of the Health and Safety Code, and in Sections 20001 and
3 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the
4 Welfare and Institutions Code.

5 SEC. 24. Section 1174.4 of the Penal Code is amended to
6 read:

7 1174.4. (a) Persons eligible for participation in this
8 alternative sentencing program shall meet all of the following
9 criteria:

10 (1) Pregnant women with an established history of substance
11 abuse, or pregnant or parenting women with an established history
12 of substance abuse who have one or more children under six years
13 old at the time of entry into the program. For women with children,
14 at least one eligible child shall reside with the mother in the facility.

15 (2) Never served a prior prison term for, nor been convicted in
16 the present proceeding of, committing or attempting to commit,
17 any of the following offenses:

18 (A) Murder or voluntary manslaughter.

19 (B) Mayhem.

20 (C) Rape.

21 (D) Kidnapping.

22 (E) Sodomy by force, violence, duress, menace, or fear of
23 immediate and unlawful bodily injury on the victim or another
24 person.

25 (F) Oral copulation by force, violence, duress, menace, or fear
26 of immediate and unlawful bodily injury on the victim or another
27 person.

28 (G) Lewd acts on a child under 14 years of age, as defined in
29 Section 288.

30 (H) Any felony punishable by death or imprisonment in the
31 state prison for life.

32 (I) Any felony in which the defendant inflicts great bodily
33 injury on any person, other than an accomplice, that has been
34 charged and proved as provided for in Section 12022.53, 12022.7,
35 or 12022.9, or any felony in which the defendant uses a firearm,
36 as provided in Section 12022.5, 12022.53, or 12022.55, in which
37 the use has been charged and proved.

38 (J) Robbery.

39 (K) Any robbery perpetrated in an inhabited dwelling house or
40 trailer coach as defined in the Vehicle Code, or in the inhabited

1 portion of any other building, wherein it is charged and proved that
2 the defendant personally used a deadly or dangerous weapon, as
3 provided in subdivision (b) of Section 12022, in the commission
4 of that robbery.

5 (L) Arson in violation of subdivision (a) of Section 451.

6 (M) Sexual penetration in violation of subdivision (a) of
7 Section 289 if the act is accomplished against the victim's will by
8 force, violence, duress, menace, or fear of immediate and unlawful
9 bodily injury on the victim or another person.

10 (N) Rape or sexual penetration in concert, in violation of
11 Section 264.1.

12 (O) Continual sexual abuse of a child in violation of Section
13 288.5.

14 (P) Assault with intent to commit mayhem, rape, sodomy, oral
15 copulation, rape in concert with another, lascivious acts upon a
16 child, or sexual penetration.

17 (Q) Assault with a deadly weapon or with force likely to
18 produce great bodily injury in violation of subdivision (a) of
19 Section 245.

20 (R) Any violent felony defined in Section 667.5.

21 (S) A violation of Section 12022.

22 (T) A violation of Section 12308.

23 (U) Burglary of the first degree.

24 (V) A violation of Section 11351, ~~11351.5~~, 11352, 11353,
25 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379,
26 11379.5, 11379.6, 11380, or 11383 of the Health and Safety Code.

27 (3) Has not been sentenced to state prison for a term exceeding
28 36 months.

29 (b) Prior to sentencing, if the court proposes to give
30 consideration to a placement, the court shall consider a written
31 evaluation by the probation department, which shall include the
32 following:

33 (1) Whether the defendant is eligible for participation pursuant
34 to this section.

35 (2) Whether participation by the defendant and her eligible
36 children is deemed to be in the best interests of the children.

37 (3) Whether the defendant is amenable to treatment for
38 substance abuse and would benefit from participation in the
39 program.

1 (4) Whether the program is deemed to be in the best interests
2 of an eligible child of the defendant, as determined by a
3 representative of the appropriate child welfare services agency of
4 the county if the child is a dependent child of the juvenile court
5 pursuant to Section 300 of the Welfare and Institutions Code.

6 (c) The district attorney shall make a recommendation to the
7 court as to whether or not the defendant would benefit from the
8 program, which the court shall consider in making its decision. If
9 the court's decision is without the concurrence of the district
10 attorney, the court shall specify its reasons in writing and enter
11 them into the record.

12 (d) If the court determines that the defendant may benefit from
13 participation in this program, the court may impose a state prison
14 sentence with the recommendation that the defendant participate
15 in the program pursuant to this chapter. The court shall notify the
16 department within 48 hours of imposition of this sentence.

17 (e) The Director of Corrections shall consider the court's
18 recommendation in making a determination on the inmate's
19 placement in the program.

20 (f) Women accepted for the program by the Director of
21 Corrections shall be delivered by the county, pursuant to Section
22 1202a, to the facility selected by the department. Before the
23 director accepts a woman for the program, the county shall provide
24 to the director the necessary information to determine her
25 eligibility and appropriate placement status. Priority for services
26 and aftercare shall be given to inmates who are incarcerated in a
27 county, or adjacent to a county, in which a program facility is
28 located.

29 (g) Prior to being admitted to the program, each participant
30 shall voluntarily sign an agreement specifying the terms and
31 conditions of participation in the program.

32 (h) The department may refer inmates back to the sentencing
33 court if the department determines that an eligible inmate has not
34 been recommended for the program. The department shall refer
35 the inmate to the court by an evaluative report so stating the
36 department's assessment of eligibility, and requesting a
37 recommendation by the court.

38 (i) Women who successfully complete the program, including
39 the minimum of one year of transition services under intensive
40 parole supervision, shall be discharged from parole. Women who

1 do not successfully complete the program shall be returned to the
2 state prison where they shall serve their original sentences. These
3 persons shall receive full credit against their original sentences for
4 the time served in the program, pursuant to Section 2933.

5 SEC. 25. Section 1203.07 of the Penal Code is amended to
6 read:

7 1203.07. (a) Notwithstanding Section 1203, probation shall
8 not be granted to, nor shall the execution or imposition of sentence
9 be suspended for, any of the following persons:

10 (1) Any person who is convicted of violating Section 11351 of
11 the Health and Safety Code by possessing for sale 14.25 grams or
12 more of a substance containing heroin.

13 (2) Any person who is convicted of violating Section 11352 of
14 the Health and Safety Code by selling or offering to sell 14.25
15 grams or more of a substance containing heroin.

16 (3) Any person convicted of violating Section 11351 of the
17 Health and Safety Code by possessing heroin for sale or convicted
18 of violating Section 11352 of the Health and Safety Code by
19 selling or offering to sell heroin, and who has one or more prior
20 convictions for violating Section 11351 or Section 11352 of the
21 Health and Safety Code.

22 (4) Any person who is convicted of violating Section 11378.5
23 of the Health and Safety Code by possessing for sale 14.25 grams
24 or more of any salt or solution of phencyclidine or any of its
25 analogs as specified in paragraph (21), (22), or (23) of subdivision
26 (d) of Section 11054 or in paragraph (3) of subdivision (e) of
27 Section 11055 of the Health and Safety Code, or any of the
28 precursors of phencyclidine as specified in paragraph (2) of
29 subdivision (f) of Section 11055 of the Health and Safety Code.

30 (5) Any person who is convicted of violating Section 11379.5
31 of the Health and Safety Code by transporting for sale, importing
32 for sale, or administering, or offering to transport for sale, import
33 for sale, or administer, or by attempting to import for sale or
34 transport for sale, phencyclidine or any of its analogs or
35 precursors.

36 (6) Any person who is convicted of violating Section 11379.5
37 of the Health and Safety Code by selling or offering to sell
38 phencyclidine or any of its analogs or precursors.

39 (7) Any person who is convicted of violating Section 11379.6
40 of the Health and Safety Code by manufacturing or offering to

1 perform an act involving the manufacture of phencyclidine or any
2 of its analogs or precursors.

3 As used in this section “manufacture” refers to the act of any
4 person who manufactures, compounds, converts, produces,
5 derives, processes, or prepares, either directly or indirectly by
6 chemical extraction or independently by means of chemical
7 synthesis.

8 (8) Any person who is convicted of violating Section 11380 of
9 the Health and Safety Code by using, soliciting, inducing,
10 encouraging, or intimidating a minor to act as an agent to
11 manufacture, compound, or sell any controlled substance
12 specified in subdivision (d) of Section 11054 of the Health and
13 Safety Code, except paragraphs (13), (14), (15), (20), (21), (22),
14 and (23) of subdivision (d), or specified in subdivision (d), (e), or
15 (f) of Section 11055 of the Health and Safety Code, except
16 paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of
17 paragraph (2) of subdivision (f).

18 (9) Any person who is convicted of violating Section 11380.5
19 of the Health and Safety Code by the use of a minor as an agent or
20 who solicits, induces, encourages, or intimidates a minor with the
21 intent that the minor shall violate the provisions of Section
22 11378.5, 11379.5, or 11379.6 of the Health and Safety Code
23 insofar as the violation relates to phencyclidine or any of its
24 analogs or precursors.

25 (10) Any person who is convicted of violating subdivision (b)
26 of Section 11383 of the Health and Safety Code by possessing
27 piperidine, pyrrolidine, or morpholine, and cyclohexanone, with
28 intent to manufacture phencyclidine or any of its analogs.

29 (11) Any person convicted of violating Section 11351,
30 ~~11351.5~~, or 11378 of the Health and Safety Code by possessing for
31 sale cocaine base, cocaine, or methamphetamine, or convicted of
32 violating Section 11352 or 11379 of the Health and Safety Code,
33 by selling or offering to sell cocaine base, cocaine, or
34 methamphetamine and who has one or more convictions for
35 violating Section 11351, ~~11351.5~~, 11352, 11378, 11378.5, 11379,
36 or 11379.5 of the Health and Safety Code. For purposes of prior
37 convictions under Sections 11352, 11379, and 11379.5 of the
38 Health and Safety Code, this subdivision shall not apply to the
39 transportation, offering to transport, or attempting to transport a
40 controlled substance.

(b) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 26. Section 1203.073 of the Penal Code is amended to read:

1203.073. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served. When probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale, or Section 11352 of the Health and Safety Code by selling, a substance containing 28.5 grams or more of cocaine ~~as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code~~ or cocaine base, or 57 grams or more of a substance containing cocaine ~~as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code~~ or cocaine base.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling a substance containing 28.5 grams or more of methamphetamine or 57 grams or more of a substance containing methamphetamine.

(3) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act which is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act which aids in the manufacture of phencyclidine.

(4) Except as otherwise provided in Section 1203.07, any person who is convicted of violating Section 11353 or 11380 of the

1 Health and Safety Code by using, soliciting, inducing,
2 encouraging, or intimidating a minor to manufacture, compound,
3 or sell heroin, cocaine base as specified in paragraph (1) of
4 subdivision (f) of Section 11054 of the Health and Safety Code,
5 cocaine as specified in paragraph (6) of subdivision (b) of Section
6 11055 of the Health and Safety Code, or methamphetamine.

7 ~~(5) Any person who is convicted of violating Section 11351.5~~
8 ~~of the Health and Safety Code by possessing for sale a substance~~
9 ~~containing 14.25 grams or more of cocaine base as specified in~~
10 ~~paragraph (1) of subdivision (f) of Section 11054 of the Health and~~
11 ~~Safety Code or 57 grams or more of a substance containing at least~~
12 ~~five grams of cocaine base as specified in paragraph (1) of~~
13 ~~subdivision (f) of Section 11054 of the Health and Safety Code.~~

14 ~~(6) Any person who is convicted of violating Section 11352 of~~
15 ~~the Health and Safety Code by transporting for sale, importing for~~
16 ~~sale, or administering, or by offering to transport for sale, import~~
17 ~~for sale, or administer, or by attempting to import for sale or~~
18 ~~transport for sale, cocaine base as specified in paragraph (1) of~~
19 ~~subdivision (f) of Section 11054 of the Health and Safety Code.~~

20 ~~(7) Any person who is convicted of violating Section 11352 of~~
21 ~~the Health and Safety Code by selling or offering to sell cocaine~~
22 ~~base as specified in paragraph (1) of subdivision (f) of Section~~
23 ~~11054 of the Health and Safety Code.~~

24 ~~(8) Any person convicted of violating Section 11379.6, 11382,~~
25 ~~or 11383 of the Health and Safety Code with respect to~~
26 ~~methamphetamine, if he or she has one or more prior convictions~~
27 ~~for a violation of Section 11378, 11379, 11379.6, 11380, 11382,~~
28 ~~or 11383 with respect to methamphetamine.~~

29 (c) As used in this section, the term “manufacture” refers to the
30 act of any person who manufactures, compounds, converts,
31 produces, derives, processes, or prepares, either directly or
32 indirectly by chemical extraction or independently by means of
33 chemical synthesis.

34 (d) The existence of any previous conviction or fact which
35 would make a person ineligible for probation under this section
36 shall be alleged in the information or indictment, and either
37 admitted by the defendant in open court, or found to be true by the
38 jury trying the issue of guilt or by the court where guilt is
39 established by a plea of guilty or nolo contendere or by trial by the
40 court sitting without a jury.

SEC. 27. Section 6243 of the Penal Code is amended to read:

6243. Primary offender groups to be dealt with in the programs established by this chapter shall be probation or parole violators who would otherwise be returned to jail or prison.

The following standards for selection shall apply:

(a) The Director of Corrections, or his or her designee, together with local parole officials, shall select offenders committed to state prison for placement in not less than 50 percent of the program beds established by this chapter. Eligible offenders shall be parole violators and felons committed to state prison who, after credit deduction for presentence incarceration and pursuant to Section 2933, would otherwise have served an actual term of six months or less in state prison. Offenders selected shall have a demonstrated history of alcohol or controlled substances abuse, or both, but shall not include any of the following:

(1) Offenders convicted at anytime of a violent felony, as defined in subdivision (c) of Section 667.5 whether in California or any other jurisdiction for an offense with the same elements.

(2) Offenders who have lost work credits while currently in prison for an offense listed in paragraph (1) of subdivision (a) of Section 2932, except for assault with a deadly weapon or a caustic substance.

(3) Offenders currently convicted of burglary of an inhabited dwelling.

(4) Offenders convicted on two or more separate occasions of violations of Section 11351, ~~11351.5~~, 11352, 11353, 11370.1, 11370.6, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code for selling or transporting for sale, manufacturing for sale, processing for sale, importing for sale, or administering any controlled substance listed in these sections, or for attempting to commit any of these offenses for those purposes and who has served at least one term in prison for violating one of these sections.

(b) The maximum period of participation in a center program shall not exceed the maximum period for which the offender could have been incarcerated in county jail or state prison. Upon release from a center, a state offender shall be subject to the parole provisions of Section 3000. Local offenders shall be subject to all conditions of probation, if probation was imposed at the time of sentencing.

1 (c) The parole of an offender placed in a center following
2 revocation of parole shall remain revoked during the period of
3 participation in a center.

4 (d) Individuals eligible for this program who are deemed unfit
5 for participation by either custodial or program staff at any time
6 shall be transferred to a state prison or county facility to which they
7 would otherwise have been committed and shall serve their
8 remaining sentence minus the time served at the center.

9 (e) Except upon agreement between the county and the
10 department, placement of state offenders in a center is limited to
11 parolees on parole in that county and new commitments sentenced
12 from that county.

13 (f) The county shall select local offenders for placement in up
14 to 50 percent of the program beds established by this chapter.
15 These offenders shall be persons convicted and sentenced to
16 county jail, whether or not as a condition of probation, and who
17 have a demonstrated history of abuse of alcohol or controlled
18 substances, or both.

19 (g) State prisoners participating in these programs shall be
20 eligible for work credit time reductions under provisions
21 applicable to state prisoners committed to state prison.

22 (h) Primary emphasis in this program shall be toward parole
23 violators and persons sentenced to prison or jail for short terms and
24 for whom rehabilitation efforts should be provided.

25 (i) The department shall regularly notify the sheriff's
26 department and the probation department of a participating county
27 of offenders placed into the program or released from the program
28 established by this chapter. The county shall likewise regularly
29 notify local parole officials of persons placed into or released from
30 its programs set up by this chapter.

31 The sheriff's department, probation and parole officials, and the
32 Board of Prison Terms shall be permitted to recommend for or
33 against placement of persons into these programs, as shall the
34 judiciary of the county.

35 (j) Facilities may not serve as housing or parole or probation
36 offices for offenders not a part of programs set up by this chapter.

37 SEC. 28. Section 12022 of the Penal Code is amended to read:

38 12022. (a) (1) Except as provided in subdivisions (c) and
39 (d), any person who is armed with a firearm in the commission of
40 a felony or attempted felony shall be punished by an additional and

1 consecutive term of imprisonment in the state prison for one year,
2 unless the arming is an element of that offense. This additional
3 term shall apply to any person who is a principal in the commission
4 of a felony or attempted felony if one or more of the principals is
5 armed with a firearm, whether or not the person is personally
6 armed with a firearm.

7 (2) Except as provided in subdivision (c), and notwithstanding
8 subdivision (d), if the firearm is an assault weapon, as defined in
9 Section 12276 or Section 12276.1, or a machinegun, as defined in
10 Section 12200, the additional and consecutive term described in
11 this subdivision shall be three years whether or not the arming is
12 an element of the offense of which the person was convicted. The
13 additional term provided in this paragraph shall apply to any
14 person who is a principal in the commission of a felony or
15 attempted felony if one or more of the principals is armed with an
16 assault weapon or machinegun whether or not the person is
17 personally armed with an assault weapon or machinegun.

18 (b) (1) Any person who personally uses a deadly or dangerous
19 weapon in the commission of a felony or attempted felony shall be
20 punished by an additional and consecutive term of imprisonment
21 in the state prison for one year, unless use of a deadly or dangerous
22 weapon is an element of that offense.

23 (2) If the person described in paragraph (1) has been convicted
24 of carjacking or attempted carjacking, the additional term shall be
25 one, two, or three years.

26 (3) When a person is found to have personally used a deadly or
27 dangerous weapon in the commission of a felony or attempted
28 felony as provided in this subdivision and the weapon is owned by
29 that person, the court shall order that the weapon be deemed a
30 nuisance and disposed of in the manner provided in Section 12028.

31 (c) Notwithstanding the enhancement set forth in subdivision
32 (a), any person who is personally armed with a firearm in the
33 commission of a violation or attempted violation of Section 11351,
34 ~~11351.5~~, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379,
35 11379.5, or 11379.6 of the Health and Safety Code, shall be
36 punished by an additional and consecutive term of imprisonment
37 in the state prison for three, four, or five years.

38 (d) Notwithstanding the enhancement set forth in subdivision
39 (a), any person who is not personally armed with a firearm who,
40 knowing that another principal is personally armed with a firearm,

1 is a principal in the commission of an offense or attempted offense
2 specified in subdivision (c), shall be punished by an additional and
3 consecutive term of imprisonment in the state prison for one, two,
4 or three years.

5 (e) For purposes of imposing an enhancement under Section
6 1170.1, the enhancements under this section shall count as one,
7 single enhancement.

8 (f) Notwithstanding any other provision of law, the court may
9 strike the additional punishment for the enhancements provided in
10 subdivision (c) or (d) in an unusual case where the interests of
11 justice would best be served, if the court specifies on the record and
12 enters into the minutes the circumstances indicating that the
13 interests of justice would best be served by that disposition.

